

Press and Information Division

PRESS RELEASE No 07/04

13 January 2004

Judgment of the Court of Justice in Case C-453/00

Kühne & Heitz v Productschap voor Pluimvee en Eieren

**AN ADMINISTRATIVE BODY MAY BE REQUIRED TO RE-EXAMINE
DECISIONS GIVEN BY IT WHICH HAVE BECOME FINAL WHERE IT BECOMES
APPARENT FROM SUBSEQUENT JUDGMENTS OF THE COURT OF JUSTICE
OF THE EUROPEAN COMMUNITIES THAT THOSE DECISIONS WERE BASED
ON A MISINTERPRETATION OF COMMUNITY LAW**

The administrative body must determine to what extent it is under an obligation to reopen its decision without adversely affecting the interests of third parties.

A Council Regulation of 1975 ¹ on the common organisation of the market in poultrymeat established a system of payments to producers exporting to non-Member States, known as "refunds". Their amount varies depending on the customs tariff classification of the exported products and offsets the difference between the generally high price within the EC and the lower price on the world market.

From December 1986 to December 1987, Kühne & Heitz, a company established in the Netherlands, lodged a number of declarations relating to exports of poultrymeat parts. The Productschap voor Pluimvee en Eieren (Commodity Board for Poultry and Eggs) initially paid the refunds claimed but then demanded reimbursement of some of the sums paid on the ground that the poultrymeat products exported had been classified under the wrong tariff subheading.

In 1991, the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) dismissed the appeal brought by Kühne & Heitz against the decision requiring reimbursement, basing its decision on the same reasoning as that relied on by the Productschap. However, the Administrative Court, which was ruling at final instance, did not

¹ Regulation No 2777/75 of 29 October 1975

refer a question on the interpretation of the customs nomenclature to the Court of Justice for a preliminary ruling. In its judgment in the *Voogd* case of 5 October 1994,² the Court of Justice gave an interpretation of the customs nomenclature in line with that advocated by Kühne & Heitz.

In December 1994, Kühne & Heitz, relying on that judgment of the Court of Justice, lodged a complaint with the Productschap which the latter dismissed, upholding its previous decision to refuse. Kühne & Heitz then brought an action for annulment of that decision to refuse before the Administrative Court, seeking a review of the customs classification of the goods in question and, as a consequence, recovery of the refunds which it had reimbursed.

The Administrative Court asked the Court of Justice whether there is an obligation under Community law to review, and possibly withdraw, a national administrative decision which has become final where it becomes apparent that it is inconsistent with a subsequent judgment of the Court of Justice. It pointed out that, under Netherlands law, administrative bodies always have the power to reopen a final administrative decision, provided that the interests of third parties are not adversely affected.

The Court of Justice stated, first of all, that **legal certainty is one of a number of general principles recognised by Community law**. Therefore, Community law **does not require that administrative bodies be placed under an obligation, in principle, to reopen** administrative decisions which have become final upon expiry of the reasonable time-limits for legal remedies or by exhaustion of those remedies.

However, the Court pointed out that, **in the present case, first**, Netherlands law confers on the administrative body the power to reopen its final decision. **Second**, the administrative decision became final only as a result of a judgment of a national court against whose decisions there is no legal remedy. **Third**, that judgment was based on an interpretation of Community law which, in the light of a subsequent judgment of the Court of Justice, was incorrect and which had been adopted without a question being referred to the Court of Justice for a preliminary ruling. **Fourth**, the person concerned complained to the administrative body immediately after becoming aware of the judgment of the Court of Justice.

In such circumstances, the administrative body concerned is obliged under Community law to review its decision in order to take account of the interpretation of the relevant provision of Community law **given in the meantime by the Court of Justice**. The administrative body will have to determine on the basis of the outcome of that review to what extent it is under an obligation to reopen its decision without adversely affecting the interests of third parties.

² Case C-151/93 [1994] ECR I-4915

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: Dutch, English, French, German.

*The full texts of the judgment can be found on the internet (www.curia.eu.int).
In principle they will be available from midday CET on the day of delivery.*

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